



Here are the top 9 legal issues real estate brokers face

Be familiar with the responsibilities surrounding the laws, and comply with them

BY DRIZIN LEE
APR 18

EMAIL SHARING:

SHARE ON SOCIAL:

Power up your Indie Brokerage

Don't miss our Indie Broker Summit SF, July 17, 2018

[LEARN MORE](#)

Real estate transactions are both [emotional](#) and complex. So in the charged real estate environment, you must familiarize yourself with the types of legal issues or claims that either buyers or sellers might file against you, as a [real estate broker](#).

Generally, lawsuits ranging from common to statutory law claims are filed against [real estate brokers](#) who fail to disclose facts or offer accurate information about a property they're selling, but that's not all.

estate brokers

Below, learn about the biggest legal issues that real estate brokers face.

1. Antitrust laws

What are antitrust laws? They're laws designed and created to avoid any trade restraints. A few violation examples are [group boycotts](#) and [price fixing](#).

At the very least, you must not enter discussions about your commission rate or the rate you're offering to cooperating brokers. In addition, you should avoid conduct leading to any allegation that you refused doing business with a specific competitor.

2. Misrepresentation

This legal issue involves a claim that you misstated any material that a buyer has to know regarding the property. Any misrepresentation can be innocent, negligent or intentional depending on the situation.



SPONSORED CONTENT

How to win the listing before you arrive

Beware that any misrepresentation involving the house's structural elements [is a ground for this violation](#). You will also violate it for not disclosing the existence of title issues or easements.

To avoid this problem, you must ask for the seller disclosure form, although it's not required in some states.

Let's take Georgia for example. In Georgia, the seller is required to inform potential buyers about any material defects except when such could only be discovered upon the home's inspection.

3. Unauthorized practice of law

The job of providing legal advice should be done by experienced real estate lawyers. Really? Salespeople and brokers for that matter should avoid unauthorized law practice.

A real estate attorney practicing and specializing in real estate laws recognizes the legal issues that brokers can face by being unaware or lacking education or knowledge surrounding certain laws.

lawyer to answer legal questions.

4. Environmental issues

By failing to recommend that experts evaluate the environmental hazards of a property, you might put yourself through the trouble of facing [environmental legal issues](#). Examples of these include groundwater contamination, lead-based paint and asbestos.

For example, lead-based paint disclosure laws require real estate brokers to notify or advise homebuyers of the paint hazards and supply them with a federal-approved information pamphlet.

This language should also be included in the sales or lease contract.

The Environmental Protection Agency also inspects a broker's records to ensure compliance with the regulations. And as a broker, you should educate and monitor your sales agents' compliance with the documentation requirements and lead-based paint disclosure laws.

5. Fair housing violations

Although violations are only about 1 percent to 2 percent, [fair housing violations](#) can lead to expensive judgment, as the area is also complicated when local or state laws add protected classes to the existing federal discrimination laws.

To avoid violating the fair housing laws, be sure to equip yourself with knowledge, and document everything to ensure everybody is getting just and fair treatment in the transaction. A model equal services report form, one for rental and one for sale, from the [National Association of Realtors](#), can also help.

6. Employment or independent contractor status of salespeople

This issue can affect your broker's tax liability. Many brokers employ [independent contractors](#) as the majority of their workforce.

To limit your employment liability, you must educate your people about your state law to qualify as an independent contractor. You should also encourage using written agreements and create an employee handbook just to be clear.

7. Real Estate Settlement Procedures Act (RESPA) violations

These violations happen when title services, mortgage brokers, lenders or brokers give or receive anything valuable to get referrals.

providers for referrals.

Although the law allows referral fees between real estate brokers, most referral fees aren't permitted.

To limit your risk for [RESPA violations](#), acquire continuing education for the latest practices and rules and have complete understanding of strict compliance if any referrals exist among service providers.

8. False (misleading) advertising lawsuits

Brokers can prevent this lawsuit by complying with state license regulations or laws and the [Realtor Code of Ethics](#). For example, licensee laws mandate including the broker's status being a licensee in every ad posted.

- Aside from complying with specific rules, you should always keep all ads truthful to the smallest detail.
- Any special state rules must also be followed when promoting real estate services or advertising properties on the web.

9. Americans with Disabilities Act violation

This violation occurs when brokers fail to serve or work for disabled clients. It has also occurred when brokers fail to provide what clients with disabilities need, such as curb breaks, ramps and other office features that will allow access to a building with ease.

Other [ADA lawsuits](#) relate with employment provisions, applying to offices with at least 15 employees, when real estate brokers [discriminate against qualified disabled persons](#).

The moral of this story: be familiar with the responsibilities surrounding the laws, and comply with them. These issues are preventable if, and only if, you equip yourself with education, knowledge and training surrounding what constitutes violating any of these laws, acts or regulations.

For more than 30 years, Attorney Lee A. Drizin has practiced in the areas of estate planning, probate, trusts, guardianship and real estate matters. He has an outstanding track record handling contested probate and administration and has been extremely successful in both jury and non-jury trials.

Article image credited to Photo by Claire Anderson on Unsplash

[EMAIL SHARING:](#)

[SHARE ON SOCIAL:](#)